

ELECTRONICALLY FILED

February 13, 2007

STUTMAN, TREISTER & GLATT, P.C.  
 FRANK A. MEROLA  
 (CA State Bar No. 136934)  
 EVE H. KARASIK  
 (CA State Bar No. 155356)  
 ANDREW M. PARLEN  
 (CA State Bar No. 230429), Members of  
 1901 Avenue of the Stars, 12<sup>th</sup> Floor  
 Los Angeles, California 90067  
 Telephone: (310) 228-5600  
 Facsimile: (310) 228-5788  
 Email: [fmerola@stutman.com](mailto:fmerola@stutman.com)  
[ekarasik@stutman.com](mailto:ekarasik@stutman.com)  
[aparden@stutman.com](mailto:aparden@stutman.com)

SHEA & CARLYON, LTD.  
 JAMES PATRICK SHEA  
 (Nevada State Bar No. 000405)  
 CANDACE C. CARLYON  
 (Nevada State Bar No. 002666)  
 SHLOMO S. SHERMAN  
 (Nevada State Bar No. 009688)  
 228 South Fourth Street, First Floor  
 Las Vegas, Nevada 89101  
 Telephone: (702) 471-7432  
 Facsimile: (702) 471-7435  
 Email: [jshea@sheacarlyon.com](mailto:jshea@sheacarlyon.com)  
[ccarlyon@sheacarlyon.com](mailto:ccarlyon@sheacarlyon.com)  
[ssherman@sheacarlyon.com](mailto:ssherman@sheacarlyon.com)

Counsel for the Official Committee Of  
 Equity Security Holders Of USA Capital First Trust Deed Fund, LLC

**UNITED STATES BANKRUPTCY COURT  
 DISTRICT OF NEVADA**

In re: ) BK-S-06-10725-LBR  
 USA COMMERCIAL MORTGAGE COMPANY, ) Chapter 11  
 Debtor. )

In re: ) BK-S-06-10726-LBR  
 USA CAPITAL REALTY ADVISORS, LLC, ) Chapter 11  
 Debtor. )

In re: ) BK-S-06-10727-LBR  
 USA CAPITAL DIVERSIFIED TRUST DEED FUND, LLC, ) Chapter 11  
 Debtor. )

In re: ) BK-S-06-10728-LBR  
 USA CAPITAL FIRST TRUST DEED FUND, LLC, ) Chapter 11  
 Debtor. )

In re: ) BK-S-06-10729-LBR  
 USA SECURITIES, LLC, ) Chapter 11  
 Debtor. )

**Affects**

- ☐ All Debtors  
☒ USA Commercial Mortgage Co.  
☐ USA Securities, LLC  
☐ USA Capital Realty Advisors, LLC  
☐ USA Capital Diversified Trust Deed  
☒ USA First Trust Deed Fund, LLC

**Hearing**

Date: March 15, 2007  
 Time: 9:30 a.m.  
 Place: Courtroom #1

**NOTICE OF FILING AND HEARING ON FIFTH OMNIBUS OBJECTION OF THE OFFICIAL  
 COMMITTEE OF EQUITY SECURITY HOLDERS OF USA CAPITAL FIRST TRUST DEED  
 FUND, LLC – MISFILED CLAIMS FILED BY ACRES CORPORATION, A NEVADA  
 CORPORATION; MICHAEL C REHBERGER AND JEANA L REHBERGER; MICHAEL  
 REHBERGER; NEWMAN TRUST DATED 1/26/94 C/O DAVID R. NEWMAN AND SANDRA L.  
 NEWMAN TRUSTEES; DANIEL HALSET & SANDRA K HALSETH TRUSTEES OF THE  
 HALSETH FAMILY TRUST TOTALLY RESTATED 4/21/00; KATRINE MIRZAIAN; AND  
 FIRST SAVINGS BANK CUSTODIAN FOR GEORGE A. DIGIOIA (AFFECTS DEBTORS USA  
 COMMERCIAL MORTGAGE COMPANY AND USA CAPITAL FIRST TRUST DEED FUND,  
 LLC)**

1 **TO: ANNEMARIE REHBERGER, TRUSTEE (on account of claims filed by ACRES**  
 2 **CORPORATION, A NEVADA CORPORATION)**  
 3 **DANIEL R. HALSETH & SANDRA K. HALSETH (on account of the claim filed**  
 4 **by HALSETH FAMILY TRUST TOTALLY RESTATED 4/21/00)**  
 5 **DAVID R. NEWMAN & SANDRA L. NEWMAN (on account of the claim filed by**  
 6 **NEWMAN TRUST DATED 1/26/94)**  
 7 **FIRST SAVINGS BANK (on account of claim filed by FIRST SAVINGS BANK**  
 8 **CUSTODIAN FOR: GEORGE A. DIGIOIA)**  
 9 **GEORGE A. DIGIOIA**  
 10 **KATRINE MIRZAIAN**  
 11 **MICHAEL C. REHBERGER & JEANA L. REHBERGER**  
 12 **MICHAEL REHBERGER**  
 13 **USA CAPITAL FIRST TRUST DEED FUND, LLC**  
 14 **U.S. TRUSTEE**  
 15 **ALL PARTIES IN INTEREST**

16 **PLEASE TAKE NOTICE** that on February 13, 2007, the "**Fifth Omnibus**  
 17 **Objection Of The Official Committee Of Equity Security Holders Of USA Capital First**  
 18 **Trust Deed Fund, LLC – Misfiled Claims**" (the "Objection") was filed by the Official  
 19 Committee of Equity Security Holders of USA Capital First Trust Deed Fund, LLC (the "FTDF  
 20 Committee"). Pursuant to the Objection, the FTDF Committee seeks the disallowance or  
 21 reclassification of certain proofs of claim (the "Wrong Debtor Claims") on the grounds that such  
 22 claims have been erroneously filed against the USA Capital First Trust Deed Fund, LLC ( the  
 23 "FTDF") and that the FTDF has no liability on account of such claims. Where claimants who filed  
 24 the Wrong Debtor Claims (the "Claimants") did not also file proofs of claim against USA  
 25 Commercial Mortgage Company ("USACM"), the FTDF Committee request that the Court  
 26 reclassify without prejudice the Wrong Debtor Claims of such Claimants as claims against  
 27 USACM such that USACM's right to object to such claims are reserved. With respect to those  
 28 Claimants who filed a proof of claim against USACM in addition to a Wrong Debtor Claim, the  
 FTDF Committee requests that the Wrong Debtor Claims of such Claimants be disallowed in full.  
 By the Objection, the FTDF Committee does not seek to prejudice the rights of any of the  
 Claimants to recover from other Debtors in the Chapter 11 Cases on account of liabilities asserted  
 in the Wrong Debtor Claims. The Wrong Debtor Claims and the requested treatment of such  
 claims by the FTDF Committee are as follows:

FDTF Claim No.	Claimant	Date Signed	Claim Amount	Comments	Filed Claim Against USACM?	Proposed Disposition
140	Acres Corporation, a Nevada Corporation	December 8, 2006	Blank	Claimant is not a FTDF Member nor is it otherwise connected to the FTDF. Proof of claim appears to be based on a loan that was made by the Claimant to Del Valle Capital Corporation.	No	Reclassify (without prejudice) claim as claim against USACM.
141	Acres Corporation, a Nevada Corporation	December 8, 2006	\$50,000.00	Claimant is not a FTDF Member nor is it otherwise connected to the FTDF. Proof of claim appears to be based on a loan that was made by the Claimant to Fiesta Development, Inc.	No	Reclassify (without prejudice) claim as claim against USACM.
142	Acres Corporation, a Nevada Corporation	December 8, 2006	\$50,000.00	Claimant is not a FTDF Member nor is it otherwise connected to the FTDF. Proof of claim appears to be based on a loan that was made by the Claimant to Elizabeth May Real Estate, LLC.	No	Reclassify (without prejudice) claim as claim against USACM.
143	Michael C Rehberger and Jeana L Rehberger	December 8, 2006	\$50,000.00	Claimants are not FTDF Members nor is it otherwise connected to the FTDF. Proof of claim appears to be based on a loan that was made by the Claimants to Elizabeth May Real Estate, LLC.	No	Reclassify (without prejudice) claim as claim against USACM.

FDTF Claim No.	Claimant	Date Signed	Claim Amount	Comments	Filed Claim Against USACM?	Proposed Disposition
144	Michael Rehberger	December 8, 2006	\$50,000.00	Claimant is not a FTDF Member nor is he otherwise connected to the FTDF. Proof of claim appears to be based on a loan that was made by the Claimant to Cornman Toltec 160, LLC	No	Reclassify (without prejudice) claim as claim against USACM.
145	Newman Trust Dated 1/26/94 c/o David R. Newman and Sandra L. Newman Trustees	December 22, 2006	\$87,339.67	Claimant is not a FTDF Members nor is it they otherwise connected to the FTDF. Proof of claim appears to be based on a loan that was made by the Claimant to Foxhill 216, LLC.	No	Reclassify (without prejudice) claim as claim against USACM.
146	Daniel R Halseth & Sandra K Halseth Trustees of the Halseth Family Trust Totally Restated 4/21/00	January 7, 2007	Unliquidated	Claimant is not a FTDF Member nor is it otherwise connected to the FTDF. Proof of claim appears to be based on loans that were made by the Claimant to Roam Development Group, Bay Pompano Beach, Gateway Stone, Del Valle – Livingston, and Palm Harbor One.	Yes	Disallow in its entirety against FTDF.

FDTF Claim No.	Claimant	Date Signed	Claim Amount	Comments	Filed Claim Against USACM?	Proposed Disposition
147	Katrine Mirzaian	January 9, 2007	\$344,011.56	Claimant is not a FTDF Member nor is she otherwise connected to the FTDF. Proof of claim appears to be based on loans that were made by the Claimant to Bay Pompano Beach, Foxhill 216 LLC, HFA-North Yonkers, and Midvale Marketplace.	Yes	Disallow in its entirety against FTDF.
149	First Savings Bank-Custodian for: George A. DiGioia	January 5, 2007	\$281,250.00	Claimant is not a FTDF Member nor is he otherwise connected to the FTDF. Proof of claim appears to be based on loans that were made by the Claimant to BarUSA, Placer Vineyards, and Standard Property.	No	Reclassify (without prejudice) claim as claim against USACM.

**PLEASE TAKE FURTHER NOTICE** that the hearing on the Objection will be held before the Honorable Linda B. Riegler, United States Bankruptcy Judge, in the Foley Federal Building, 300 Las Vegas Boulevard South, Courtroom 1, Las Vegas, Nevada, on **March 15, 2007, at the hour of 9:30 a.m.**

**PLEASE TAKE FURTHER NOTICE** that this hearing may be continued from time to time without further notice except for the announcement of any adjourned dates and time at the above noticed hearing or any adjournment thereof.

1                   **PLEASE TAKE FURTHER NOTICE** that any response to the Objection must  
2 be filed by **March 8, 2007** pursuant to Local Rule 3007(b), which states:

3                   If an objection to a claim is opposed, a written response must be  
4 filed and served on the objecting party at least 5 business days  
5 before the scheduled hearing. A response is deemed sufficient if it  
6 states that written documentation in support of the proof of claim  
7 has already been provided to the objecting party and that the  
8 documentation will be provided at any evidentiary hearing or trial  
9 on the matter.

8                   If you object to the relief requested, you *must* file a **WRITTEN** response to this  
9 pleading with the court. You *must* also serve your written response on the person who sent you  
10 this notice.

11                   If you do not file a written response with the court, or if you do not serve your  
12 written response on the person who sent you this notice, then:

13                   !       The court may *refuse to allow you to speak* at the scheduled hearing; and  
14                   !       The court may *rule against you* without formally calling the matter at the  
15 hearing.

16  
17 DATED: February 13, 2007

18                   /s/ Andrew M. Parlen  
19 Andrew M. Parlen, Esq.  
20 Stutman, Treister & Glatt  
21 Professional Corporation  
22 Counsel to the Official Committee of Equity  
23 Security Holders of USA Capital First Trust  
24 Deed Fund, LLC  
25  
26  
27  
28